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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE SEP 10 2001

Applicants : KONISHI et al.

TC 2800 MAIL ROOM

Appl. No. : 09/575,667

Group Art Unit: 2834

Filed : June 15, 2000

Examiner: D. LE

For : DIRECT CURRENT COMMUTATOR MOTOR

RESPONSE TO RESTRICTION REQUIREMENT WITH TRAVERSE

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

In response to the Examiner's restriction requirement dated August 7, 2001, setting a one month period for response extending until September 7, 2001, Applicants elect, with traverse, the invention identified by the Examiner as Group I. Claims 1 and 2 are considered to be "readable" on the invention of Group I (as set forth by the Examiner).

Applicants respectfully traverse the Examiner's restriction requirement. As an initial matter, the Examiner has mis-identified claims 1 and 2 (Group I) as being drawn to "a brush with composition feature", while in reality these claims are drawn to "a direct current commutator motor". Further, while independent claim 1 does set forth first and second brushes as elements of the commutator motor, it also sets forth a commutator having a rotor wire winding, and a capacitor. Thus, to identify the invention of claims 1 and 2 as being

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limited to a "brush" is clearly mischaracterization of the invention defined by these claims. It is further noted that claims 3-5 (Group II), which the Examiner has identified as being drawn to "a brush holder", are likewise drawn to "a direct current commutator motor".

The Examiner has characterized the relationship between the inventions of Groups II (claims 3-5) and I (claims 1-2) as that of "combination and subcombination". Further, the Examiner has stated in the restriction requirement that the combination does not require the particulars of the subcombination because it does not require the "composition feature of the brush", and that the subcombination has separate utility, such as "providing electricity in motors without resin brush holders with special tubes". However, as pointed out above, the claims of Groups I and II are all drawn to "a direct current commutator motor", not to specific elements thereof that can be characterized as combination and subcombination. Further, claims 1 and 2 of Group I recite not only first and second brushes, but also a commutator having a rotor wire winding, and a capacitor, as constituting elements of such commutator motor. Therefore the claims of Group I can not logically be characterized as drawn to a "brush" subcombination of a "brush holder" combination.

Additionally, even if the Examiner's characterization of Groups II and I as defining a combination and subcombination were to be considered correct, Applicants respectfully request that all of the inventions defined in claims 1-5, nevertheless, be examined in the instant application, pursuant to the guidelines set forth in M.P.E.P. §803. That is, the

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Examiner is respectfully requested to reconsider the restriction requirement and find that there would not appear to be a "serious burden" on the Patent and Trademark Office in examining claims directed to the non-elected invention since the Examiner will have to search for structure to hold brushes in commutator motors quite similar to that of claims 3-5 while searching for the commutator motors with brushes of claims 1 and 2.

It would appear that the search for the inventions identified by the Examiner would be coextensive or at least significantly overlap. That is, if the Examiner were to perform a search for the invention of Group I, there would not appear to be a serious burden in continuing the examination of the other invention of Group II, especially since at least the "brush holder" of Group II and "brushes" of Group I are each claimed as elements of commutator motors, and are each classified in class 310. For this reason, and consistent with office policy as set forth in M.P.E.P. 803, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement.

For the foregoing reasons, it is submitted that the restriction requirement in this application is improper and it is respectfully requested that it be reconsidered and withdrawn.

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Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
KONISHI et al.

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September 7, 2001
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